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EXAMINER	
LIN, KENNY S	

ART UNIT	PAPER NUMBER
2452	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/648,999	DAY, MARK STUART	
	Examiner	Art Unit	
	Kenny S. Lin	2452	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *17 October 2008*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-29,31 and 32* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-29, 31-32* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

1. Claims 1-29 and 31-32 are presented for examination. Claim 30 is canceled.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

> The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 1-29 and 31-32 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. Claim 1 claims ***In a computerized device***, a method…, in accordance with the notification message, subscribing to the presence information using the one-to-many transmission channel resulting in the content subscriber receiving presence information ***from the computerized device*** by the one-to-many transmission channel. If the method steps is carried out *in the computerized device*, as stated in the preamble, how can the step of "in accordance with the notification message, subscribing to the presence information using the one-to-many transmission channel resulting in the content subscriber receiving presence information ***from the computerized device*** by the one-to-many transmission channel" be performed to receive presence information from itself? It is clearly that this step is not carried out by the computerized device. Claims 8, 15, 16, 17, 22, 27 and 28 contain the same logical error (For example in claim 8. How can the controller be configured to

receive subscription request, send out notification but then be the device to subscribe to the presence information using the notification message? Why do a computerized device comprising a controller need to have the controller to receive presence information from the computerized device?) Appropriate correction is required.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

5. Claims 1, 3, 7-8, 10, 14-17, 2-2, 24 and 26-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Applicant Admitted Prior Art (Background of the Specification, herein after AAPA), in view of Mathis, US 2003/0083046.

6. Mathis was cited in the previous office action.

7. As per claims 1, 8 and 15-16, AAPA taught the invention substantially as claimed including a computerized device comprising:

a. At least one communication interface (clients computer with network applications; page 2, line 1-2, 7-10);

b. A controller (server computer; page 2, lines 1-2); and

c. An interconnection mechanism coupling the at least one communications interface and the controller (network connection: page 2, lines 4-6);

d. Wherein controller is configured to:

i. Receive from the content subscriber on a one-to-one transmission channel, a subscription request for presence information (page 2, lines 17-20);

ii. Transmit the notification message to the content subscriber using the one-to-one transmission channel (page 2, lines 7-13).

8. AAPA did not specifically teach to insert an address within a notification message in response to receiving the subscription request, the address within the notification message directing the content subscriber to a one-to-many transmission channel to receive the presence information transmitted using the one-to-many transmission channel; the address of the notification message allowing the content subscriber to subscribe to the presence information using the one-to-many transmission channel; and subscribing, in accordance with the notification message, to the presence information using the one-to-many transmission channel resulting in the content subscriber receiving the presence information from the computerized device by the one-to-many transmission channel.

9. Mathis taught to insert an address within a notification message in response to receiving the subscription request, the address within the notification message directing the content subscriber to a one-to-many transmission channel to receive the presence information transmitted using the one-to-many transmission channel; the address of the notification message allowing the

content subscriber to subscribe to the presence information using the one-to-many transmission channel (pp. 0005-0006, 0012, 0021: figure 2); and subscribing, in accordance with the notification message, to the presence information using the one-to-many transmission channel resulting in the content subscriber receiving the presence information from the computerized device by the one-to-many transmission channel (pp. 0021-0022, in order to receive data from the multicast address, a basic handshake process must be performed (e.g. subscription request) with the multicast address: figure 2).

10. It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of AAPA and Mathis because Mathis' teaching of multicasting presence information to a plurality of devices enables AAPA's system to effectively update and distribute presence information about members of a contact list in a wireless network (see Mathis pp. 0004).

11. As per claims 17, 22 and 27-28, AAPA taught the invention substantially as claimed including a content subscriber comprising:

a. At least one communication interface (clients computer with network applications; page 2, line 1-2, 7-10);
b. A controller (server computer; page 2, lines 1-2); and
c. An interconnection mechanism coupling the at least one communications interface and the controller (network connection: page 2, lines 4-6);
d. Wherein controller is configured to:

i. Transmit, via the at least one communications interface, a first subscription request for presence information to a computerized device (page 2, lines 4-20);

ii. Receive, via the at least one communication interface, in response to transmitting the subscription request, a notification from the computerized device (page 2, lines 17-20).

12. AAPA did not specifically teach the notification message having an address directing the content subscriber to a one-to-many transmission channel to receive the presence information transmitted using the one-to-many transmission channel; and in accordance with the address in the notification message, transmit, via the at least one communication interface, a second subscription request for the presence information using the one-to-many transmission channel; wherein transmission of the second subscription request results in receiving the presence information from the computerized device by the one-to-many transmission channel.

13. Mathis taught to insert an address within a notification message in response to receiving the subscription request, the address within the notification message directing the content subscriber to a one-to-many transmission channel to receive the presence information transmitted using the one-to-many transmission channel (pp. 0005-0006, 0012, 0021: figure 2); and subscribing, in accordance with the notification message, to the presence information using the one-to-many transmission channel resulting in the content subscriber receiving the presence information from the computerized device by the one-to-many transmission channel (pp. 0021-

0022, in order to receive data from the multicast address, a basic handshake process must be performed (e.g. subscription request) with the multicast address: figure 2).

14. It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of AAPA and Mathis because Mathis' teaching of multicasting presence information to a plurality of devices enables AAPA's system to effectively update and distribute presence information about members of a contact list in a wireless network (see Mathis pp. 0004).

15. As per claims 3 and 10, AAPA and Mathis taught the invention substantially as claimed in claims 1 and 8. Mathis further taught the step of inserting comprises inserting a plurality of address within the notification message, each of the plurality of addresses relating to presence information transmitted using a corresponding one-to-many transmission channel (pp. 0012, 0021-0022).

16. As per claims 20 and 24, AAPA and Mathis taught the invention as claimed in claims 17 and 22. Mathis further taught the step of receiving comprises receiving a notification message from the computerized device, the notification message having a plurality of addresses, each of the plurality of addresses relating to presence information transmitted using a corresponding one-to-many transmission channel and further comprising selecting a one-to-many transmission channel for reception of the presence information (pp. 0012, 0021-0022).

17. As per claims 7 and 14, AAPA and Mathis taught the invention substantially as claimed in claims 1 and 8. Mathis further taught that:

a. The step of inserting comprises inserting the address within the notification message in response to receiving the subscription request, the address relating to presence information transmitted using a multicast transmission channel (pp. 0005-0006, 0012, 0022-0023); and

b. The step of transmitting comprises transmitting the notification message to the content subscriber, the address of the notification message allowing the content subscriber to subscribe to the presence information using the multicast transmission channel (pp. 0012, 0022-0023).

18. As per claims 21 and 26, AAPA and Mathis taught the invention substantially as claimed in claims 17 and 22. Mathis further taught that:

a. The step of receiving comprises receiving, in response to transmitting the subscription request, a notification message from the computerized device, the notification message having an address relating to presence information transmitted using a multicast transmission channel (pp. 0005-0006, 0012, 0022-0023); and

b. The step of transmitting a second subscription request comprises transmitting the second subscription request for presence information using the multicast transmission channel (pp. 0012, 0022-0023).

19. Claims 2, 9, 18 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over AAPA and Mathis as applied to claims 1, 8, 17 and 22 above, and further in view of Costa-Requena et al (hereinafter Costa), US 2004/0098491.

20. Costa was cited in the previous office action.

21. As per claims 2 and 9, AAPA and Mathis taught the invention substantially as claimed in claims 1 and 8. Mathis further taught the step of inserting further comprises inserting an address identifier within the notification message (pp. 0021). AAPA and Mathis did not specifically teach that the address identifier to indicate the availability of the address within the notification message. Costa taught to indicate the availability of the presence information and the address of the presence information (pp. 0028). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of AAPA, Mathis and Costa because Costa's teaching of indicating the availability of the address enables AAPA and Mathis' system to inform the subscriber whether the presence information is available.

22. As per claims 18 and 23, AAPA and Mathis taught the invention substantially as claimed in claims 17 and 22. Mathis further taught the step of receiving further comprises receiving an address identifier within the notification message (pp. 0005-0006, 0021) and:

a. Examining the address identifier (pp. 0021);

b. When identifying the address identifier in response to examining, utilizing the address to transmit the second subscription request for presence information using the one-to-many transmission channel (pp. 0022-0023).

23. AAPA and Mathis did not specifically teach that the address identifier to indicate the availability of the address within the notification message. Costa taught to indicate the availability of the presence information and the address of the presence information (pp. 0028). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of AAPA, Mathis and Costa because Costa's teaching of indicating the availability of the address enables AAPA and Mathis' system to inform the subscriber whether the presence information is available at the directed address. Furthermore, it would have been obvious to one of ordinary skill in the art to save time and ignore the notification message when there exist an indication indicating that the presences information address inserted in the message is not available.

24. Claims 4 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over AAPA and Mathis as applied to claims 1 and 8 above, and further in view of Barbir et al (hereinafter Barbir), US 2003/0115283.

25. Barbir was cited in the previous office action.

26. As per claims 4 and 11, AAPA and Mathis taught the invention substantially as claimed in claims 1 and 8. Mathis further taught that the step of receiving comprises receiving a plurality of subscription requests for presence information from a plurality of subscribers and the step of transmitting comprises transmitting the notification message to a portion of the subscribers, the address of the notification message allowing the portion of the subscribers to subscribe to the presence information using the one-to-many transmission channel (abstract, pp. 0005-0006, 0012, 0021-0023). AAPA and Mathis did not specifically teach in detail to:

a. Detect a size characteristic of the plurality of content subscribers;

b. Compare the size characteristic to a threshold condition.

27. Barbir taught to redirect subscriber requests according to content server load and to detect a size characteristic of the plurality of content subscribers and compare the size characteristic to a threshold condition in determine the server load (abstract, pp. 0006-0007, 0010, 0013-0016, 0031). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of AAPA, Mathis and Barbir because Barbir's teaching of determining size characteristics of the content subscribers helps AAPA and Mathis system to determine server loads and efficiently redirect the incoming requests to prevent server overload.

28. Claims 5 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over AAPA, Mathis and Barbir as applied to claims 5 and 11 above, and further in view of Bobde et al (hereinafter Bobde), US 2003/0217099.

29. Bobde was cited in previous office action.

30. As per claims 5 and 12, AAPA, Mathis and Barbir taught the invention substantially as claimed in claims 4 and 11. AAPA, Mathis and Barbir did not specifically teach to transmit a nullify notification message to a content subscriber subscribed to the presence information using the one-to-many transmission channel, the nullify notification message having a one-to-one address relating to presence information transmitted using a one-to-one transmission channel; and receive a second subscription request from the content subscriber for presence information using the one-to-one transmission channel. Bobde taught to comprise: transmitting a nullify notification message to a content subscriber subscribed to the presence information using the one-to-many transmission channel, the nullify notification message having a one-to-one address relating to presence information transmitted using a one-to-one transmission channel (pp. 0022, 0029-0030, 0040-0047); and receiving a second subscription request from the content subscriber for presence information using the one-to-one transmission channel (pp. 0044-0047). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of AAPA, Mathis, Barbir and Bobde because Bobde's teaching of using nullify message enables AAPA, Mathis, Barbir's system to indicate the presence information is empty.

31. Claims 6, 13, 19 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over AAPA and Mathis as applied to claims 1, 8, 17 and 22 above, and further in view of Kinnunen et al (Kinnunen), US 6,813,501.

32. Kinnunen was cited in the previous office action.

33. As per claims 6 and 13, AAPA and Mathis taught the invention substantially as claimed in claims 1 and 8. Mathis further taught to comprise subscribing to the one-to-many transmission channel for reception of the presence information (pp. 0021: Upon receiving one or more multicast addresses, each client devices perform actions necessary to receive multicast traffic sent to these multicast addresses). AAPA and Mathis did not specifically teach to receive an unsubscribe message from the content subscriber in response to transmitting the notification message, the unsubscribe message indicating unsubscription from a one-to-one transmission channel for reception of the presence information. Kinnunen taught to use unsubscribe message to indicate unsubscription (col.14, lines 23-37). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of AAPA, Mathis and Kinnunen because Kinnunen's teaching of using unsubscribing message enables the subscribers of AAPA and Mathis' system to terminate their subscription when they no longer desire the presence information by sending a unsubscribing message and hence manually terminate the communication between the subscribers and the controller.

34. As per claims 19 and 25, AAPA and Mathis taught the invention substantially as claimed in claims 17 and 22. Mathis further taught so subscribe to receive the presence information (pp. 0021). AAPA and Mathis did not specifically teach to transmit an unsubscribe message to the presence server in response to receiving the notification message, the unsubscribe message

indicating unsubscription from a one-to-one transmission channel for reception of the presence information. Kinnunen taught to use unsubscribe message to indicate unsubscription (col.14, lines 23-37). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of AAPA, Mathis and Kinnunen because Kinnunen's teaching of using unsubscribing message enables the subscribers of AAPA and Mathis' system to terminate their subscription when they no longer desire the presence information by sending a unsubscribing message and hence manually terminate the communication between the subscribers and the controller.

35. Claim 29 is rejected under 35 U.S.C. 103(a) as being unpatentable over AAPA, Mathis and Kinnunen as applied to claim 6 above, and further in view of Bobde et al, (hereinafter Bobde), US 2003/0217099, and Friedman, US 2004/0158608.

36. Friedman was cited in the previous office action.

37. As per claim 29, AAPA, Mathis and Kinnunen taught the invention substantially as claimed in claim 6. AAPA, Mathis and Kinnunen did not specifically teach to track the number of content subscribers using one-to-one transmission channel and the number of content subscribers using one-to many transmission channel based on the number of unsubscribe message received; and balance distribution of presence information between the one-to-one transmission channel and the one-to-many transmission channel based on the number of content subscribers using each channel. Bobde taught to track the number of content subscribers using

one-to-one transmission channel and the number of content subscribers using one-to-many transmission channel based on the number of subscribe messages receive (pp. 0029: list of addresses of subscribers). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of AAPA, Mathis, Kinnunen and Bobde because Bobde's teaching of tracking subscribers enables AAPA, Mathis and Kinnunen's system to identify the subscribers on subscribing the presence information using the multicast address. AAPA, Mathis, Kinnunen and Bobde did not specifically teach to manage balance distribution of presence information between the one-to-one transmission channel and the one-to-many transmission channel based on the number of content subscribers using each channel. Friedman taught to include a load balancer for the presence server to balance traffic between the presence server and the subscribers (pp. 0029-0031). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of AAPA, Mathis, Kinnunen, Bobde and Friedman because Friedman's teaching of using a load balancer enables AAPA, Mathis, Kinnunen and Bobde's system to balance presence information and updated presence information to the users and properly handle traffic load (see Friedman pp. 0030).

38. Claims 31-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over AAPA and Mathis as applied to claims 1 and 8 above, and further in view of Hughes, US 6,122,372.

39. Hughes was cited in the previous office action.

40. As per claims 31 and 32, AAPA and Mathis taught the invention substantially as claimed in claims 1 and 8. AAPA and Mathis did not specifically teach that each address within the notification message includes a tag indicating a particular communications protocol and wherein the content subscriber is configured to communicate according to the communications protocol identified by said tag such that multiple protocols are utilizable by a plurality of independently-implemented content subscribers. Hughes taught to use protocol tags within messages to indicate a particular communication protocol of the messages and wherein the content subscriber is configured to communicate according to the communications protocol identified by the tag such that multiple protocols are utilized by a plurality of independently-implemented content subscribers (col.9, lines 25-32, 35-36, 58-67). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of AAPA, Mathis and Hughes because Hughes' teaching of using protocol tags enables AAPA and Mathis' system to determine the specific protocol to sending the messages.

Response to Arguments

41. Applicant's arguments with respect to claims 1-29 and 31-32 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

42. A shortened statutory period for reply to this Office action is set to expire THREE MONTHS from the mailing date of this action.

43. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kenny Lin whose telephone number is (571) 272-3968. The examiner can normally be reached on 8 AM to 5 PM Tue.-Fri. and every other Monday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Follansbee can be reached on (571) 272-3964. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Kenny S Lin/
Primary Examiner, Art Unit 2152
December 24, 2008